

MEMORANDUM TO: Mayor and City Council

FROM: Greg Ossont, Director *TWS*
Planning and Code Administration

VIA: David B. Humpton, City Manager *DLH*

DATE: September 7, 2006

SUBJECT: T-372 – Amendment to Site Development Plans

At the regular meeting on September 6, 2006, the Planning Commission made a recommendation to the Mayor and City Council on T-372. A copy of the CPC is attached (Exhibit 18 of the record file). A revision of the text amendment, with the Planning Commission's suggested changes, is also attached (Exhibit 19). (Please review the revision key at the bottom of Exhibit 19 prior to reading the text. The Planning Commission changes, located on Pages 4 and 5, are also highlighted.) As you may recall, T-372 was the subject of a Joint Public Hearing on January 3, 2006, and joint work session on February 13, 2006.

The proposed text amendment would allow staff to create a "consent agenda" for the Planning Commission, as well as allow small residential additions to be processed as minor amendments for properties that are subject to a site development plan (i.e. single family homes in the MXD zone). This text amendment does not apply to older properties which are not subject to site development plans.

Staff is suggesting the Mayor and City Council announce a closing of the record on T-372 on Wednesday, September 27, 2005, at 5 P.M. during the regular meeting on September 18, 2006. Policy discussion is anticipated for the regular meeting on October 3, 2006.

If you have any questions, please contact me directly at 301-258-6330 or gossont@gaithersburgmd.gov



COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Mayor and City Council

VIA: David Humpton, City Manager

FROM: Greg Ossont, Director
Planning and Code Administration

DATE: September 7, 2006

SUBJECT: T-372 -- Amendment to Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

At its regular meeting on September 6, 2006, the Planning Commission discussed the proposed text amendment with modifications and noted the following:

- 1) The ability to establish a consent agenda is desirable to expedite applications that do not warrant a full review by the Commission but such applications should require a notification requirement consistent with the notice requirements of minor amendments.
- 2) It is in the interest of the City and its residents to facilitate applications for small residential additions without complex application procedures and full hearings and allow these applications to be processed and approved as minor amendments to site development plans.

At its regular meeting on September 6, 2006, the Planning Commission made the following motion:

Vice-Chair Levy moved, seconded by Commissioner Kaufman, to recommend ADOPTION of Text Amendment T-372 to the Mayor and City Council, with revisions as reflected on Exhibit 16.

Vote: 5-0



ORDINANCE No. _____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE
(CITY ZONING ORDINANCE), ARTICLE V, ENTITLED,
"SITE DEVELOPMENT PLANS," §24-172, ENTITLED, "COMPLIANCE WITH AND
CHANGES IN PLAN," AND TO CREATE NEW §24-172A, ENTITLED,
"AMENDMENT TO SITE DEVELOPMENT PLAN," SO AS TO REVISE
REQUIREMENTS FOR AMENDING SITE PLANS

Text Amendment T-372

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article V, §24-172, and create new §24-172A, are hereby amended to read as follows:

ARTICLE V. SITE DEVELOPMENT PLANS

*

*

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Sec. 24-172. Compliance with plan [and changes in plan].

(a) *Compliance requirements.* Land which is the subject of an approved site development plan shall be developed and used only in accordance with the approved plan or in accordance with amendments to said plan approved in accord with the provisions of this chapter. The approvals of site development plans or amendments thereto may contain such conditions as are necessary to ensure compliance with the requirements of this chapter or which are in the public interest. Use and development of land which is the subject of the site development plan or the construction of a building or structure thereon in a manner not in compliance with that plan is prohibited and shall constitute a violation of this chapter.

~~[(b) *Requests for amendment of site development plans.* A request for amendment shall be accompanied by so much of the information required by section 24-169 as is necessary to properly detail and permit action upon the request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee for processing the request. Minor amendment requests shall~~

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Added to existing law by original bill.

Deleted from existing law by original bill

Amendment Proposed by Planning Commission.

Proposed Deletion from existing law or the bill by Planning Commission.

Existing law unaffected by bill.

~~be those requests specified in subsection (c) of this section and shall be acted upon by the planning director or his/her designee. The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of abutting and confronting properties of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department. All amendment requests, except for minor amendments, shall be subject to public hearing and a decision by the city planning commission.]~~

~~[(c) Minor amendment requests.~~

~~(1) Requests for minor amendment shall be filed with and acted upon by the planning director or his/her designee. Requests for minor amendment include:~~

~~(a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.~~

~~(b) Resiting of a lot with a house type previously approved by the city planning commission.~~

~~(c) Approval of retaining walls/fences and other enclosures.~~

~~(d) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than item (b) above).~~

~~(e) Minor signage changes or additions.~~

~~(f) Minor landscaping or pedestrian and sidewalk access revisions.~~

~~(g) Addition of easements and parking areas or correction of easement and parking area locations.~~

~~(h) Revisions to forest conservation plan.~~

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- ~~(1) Revisions or amendments delegated by the city planning commission.~~
- ~~(2) Public hearings of the planning commission are not required for a minor amendment, provided, however, the planning director or his/her designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.~~
- ~~(3) A minor amendment may only be granted if:

 - ~~(a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and~~
 - ~~(b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and~~
 - ~~(c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.~~~~
- ~~(4) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public hearing on the decision of the planning director, or order written statements and oral argument in lieu of a public hearing. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action.]~~

Sec. 24-172A. Amendment to site development plan.

A request for amendment to an approved site plan shall be accompanied by as much of the information required by section 24-169 as is necessary to properly detail and permit action upon the specific request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee and

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submit proper application and copies of the amendment proposal for processing the request. All amendment requests, except for minor amendments, shall be subject to a decision by the city planning commission.

(a) Amendment requests, other than minor amendment. Amendment requests that are not minor amendment requests as set forth in subsection (b) of this section, are submitted to the planning commission and may be reviewed under either the consent agenda or the site plan agenda at the decision of the planning director or his/her designee. The planning commission, by a majority vote, may require a consent item to be placed on the site plan agenda with the required notification.

(1) Consent agenda items shall require the applicant to provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.

(b) Minor amendment requests.

(1) Requests for minor amendment shall be filed with the planning director or designee. Minor amendment requests shall be those requests specified in this subsection and shall be acted upon by the planning director or his/her designee.

(2) The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.

(3) Requests for minor amendment include:

(a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or

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rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.

(b) Resiting of a lot with a house type previously approved by the city planning commission.

(c) Approval of retaining walls/fences and other enclosures.

(d) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than items (b) ~~[[above]~~ unless it conforms to item~~]]~~ and (e) of this subsection.)

(e) Minor revisions to a single family detached, semi-detached or attached dwelling that do not increase the square footage of a dwelling as originally constructed on any and/ or all floors by more than fifteen percent (15%) and that have been approved by the homeowners' association of the subject property, if applicable.

(f) Minor signage changes or additions.

(g) Minor landscaping or pedestrian and sidewalk access revisions.

(h) Addition of easements and parking areas or correction of easement and parking area locations.

(i) Revisions to forest conservation plan.

(j) Revisions or amendments delegated by the city planning commission.

(4) Public reviews of the planning commission are not required for a minor amendment, provided, however, the planning director or designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.

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(5) A minor amendment may only be granted if:

- (a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and
- (b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and
- (c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.

(6) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public review on the decision of the planning director, or order written statements and oral argument in lieu of a public review. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action in writing.

ADOPTED by the City Council of Gaithersburg, Maryland, this _____ day of _____, 2006.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2006. APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2006.

SIDNEY A. KATZ, MAYOR

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THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the _____ day of _____, 2006, and the same was APPROVED/VETOED by the Mayor of the City of Gaithersburg on the _____ day of _____, 2006. This Ordinance will become effective on the _____ day of _____, 2006.

DAVID B. HUMPTON, City Manager

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